



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 18, 1998

Mr. Jerry Bruce Cain
Assistant City Attorney
City of Laredo
Office of the City Attorney
P.O. Box 579
Laredo, Texas 78042-0579

OR98-1225

Dear Mr. Cain:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 115796.

The City of Laredo (the "city") received a request for "the results, overall and individual, of the psychological and polygraph tests administered to the officers hired by the [department] on January 1998." You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code in conjunction with various statutory provisions. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. First, you assert that the records of psychological tests are confidential under chapter 611 of the Health and Safety Code. You have submitted for our review psychological test results which you represent were certified by Dr. Gregorio Pena III, a licensed psychologist. Section 611.002 provides in part:

- (a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.
- (b) Confidential communications or records may not be disclosed except as provided by Section 611.004 or 611.0045.

Based on your representation that a professional, as defined by section 611.001, prepared the evaluations, we conclude that these records are deemed confidential by section 611.002(a)

of the Health and Safety Code. Such information may only be released in accordance with sections 611.004 or 611.0045 of the Health and Safety Code.

Second, you argue that the polygraph reports are confidential. Texas law prohibits the public disclosure of the results of polygraph examinations. V.T.C.S. art. 4413(29cc). Thus, the city must not release the results of the polygraph examinations to anyone except as specifically provided by section 19A of article 4413(29cc), V.T.C.S. *See also* Open Records Decision No. 430 (1985) (enumerating persons and entities to whom information acquired from a polygraph examination may be disclosed). The mere fact that a polygraph examination has been conducted, however, is not confidential under the statute and must be released.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Vickie Prehoditch
Assistant Attorney General
Open Records Division

VDP/glg

Ref.: ID# 115796

Enclosures: Submitted documents

cc: Ms. Estella Rodriguez
Managing Editor
Laredo Morning Times
111 Esperanza Drive
Laredo, Texas 78041
(w/o enclosures)